

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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97-15 DITMAS AVENUE CORP. and VARIETY  
DISTRIBUTORS INC.,

Plaintiff,

- against -

AMGUARD INSURANCE COMPANY,

Defendant.

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Docket No.: 14 CV 4812 ( )

ECF Case

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant AmGUARD Insurance Company (“AmGuard”), hereby files this Notice of Removal of the above-captioned action to the United States District Court for the Eastern District of New York from the Supreme Court of the State of New York, Kings County, where the action is now pending under Index No. 506286/2014, and states:

1. On or about July 10, 2014, Plaintiffs 97-15 Ditmas Avenue Corp. and Variety Distributors, Inc. (collectively, “Plaintiffs”) commenced this action in the Supreme Court of the State of New York, Kings County by filing a summons and complaint (the “Complaint”), and the action is now pending in that court.

2. On July 15, 2014, the Complaint was served upon the New York State Department of Financial Services.

3. This matter is a civil action for a breach of contract claim by Plaintiffs against its insurer in which the United States District Court for the Eastern District of New York has jurisdiction by reason of the parties’ diversity of citizenship.

4. Upon information and belief, Plaintiff 97-15 Ditmas Avenue Corp. is now, and at the time the action was commenced, a citizen of the State of New York. Plaintiff 97-15 Ditmas

Avenue Corp. is a corporation organized, formed and incorporated under the laws of the State of New York with its principal place of business located at 97-15 Ditmas Avenue, Brooklyn, New York.

5. Upon information and belief, Plaintiff Variety Distributors, Inc. is now, and at the time the action was commenced, a citizen of the State of New York. Plaintiff Variety Distributors, Inc. is a corporation organized, formed and incorporated under the laws of the State of New York with its principal place of business located at 97-15 Ditmas Avenue, Brooklyn, New York.

6. Defendant AmGuard is now, and at the time the action was commenced, a citizen of the State of Pennsylvania. AmGuard is a foreign corporation organized, formed and incorporated under the laws of Pennsylvania with its principal place of business located at 16 South River Street, Wilkes-Barre, Pennsylvania 18702.

7. The amount in controversy in this action exceeds \$75,000 exclusive of interest and costs.

8. No change of citizenship of the parties has occurred since the commencement of the action.

9. Accordingly, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

10. A copy of all process, pleadings and orders served upon AmGuard is attached hereto as Exhibit "A" and filed with this notice.

11. This Notice of Removal is being filed within thirty (30) days after receipt by AmGuard of the initial pleading setting forth the claim for relief upon which the action is based and is timely pursuant to 28 U.S.C. § 1446(b).

12. Promptly after the filing of this Notice of Removal, AmGuard will give written notice thereof to Plaintiffs' attorney of record and will file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, Kings County, thereby effecting removal of the Action pursuant to 28 U.S.C. § 1446(d).

**WHEREFORE**, since all of the prerequisites for diversity jurisdiction are present, AmGuard respectfully requests that this action proceed in the United States District Court for the Eastern District of New York as an action properly removed to it.

Dated: New York, New York  
August 13, 2014

LAZARE POTTER & GIACOVAS LLP

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